

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**ABRAHAM CAMPOS, EDER GORDILLO,
PAULINO CARPINTERO, SAMUEL HERRERA
and YONI DE LOS SANTOS, Individually and On
Behalf of All Others Similarly Situated,**

Plaintiffs,

-against-

**BKUK 3 CORPORATION d/b/a LA
CARBONARA, BKUK 5 CORPORATION d/b/a
LIMON JUINGLE, BKUK 6 CORPORATION
d/b/a GALLO NERO, BKUK 7 CORPORATION
d/b/a EL GALLO DE ORO, BKUK 8
CORPORATION d/b/a SERENATA, 9th AVE.
LIME JUNGLE, INC. d/b/a LIMON JUNGLE, B &
R SORRENTI CORP. d/b/a INTERMEZZO, PIO
RESTAURANT, LLC d/b/a LUNA PIENA, ZUCCA
TRATTORIA INC. d/b/a TAQUERIA MEZ-A AND
GALLO NERO III and BESIM KUKAJ, Jointly
and Severally,**

Defendants.

**BRYAN MACANCELA, CRISTIAN ASITIMBAY,
MARIO ASITIMBAY, EDISON MACANCELA,
MILTON QUIZHPILEMA, EDUARDO YUNGA,
VLADIMIR YUNGA, FELIPE VEGA-LOYOLA,
VICTOR GONZALEZ, JUAN AGAPITO
CARRANZA, ROGELIO DE JESUS SANTOS,
ESTRADA A. ESTRADA CORTEZ, and JOSE
VAZQUEZ REYES, individually and on behalf of
all other similarly situated,**

Plaintiffs,

18 Civ. 4036 (JGK)(KHP)

DEFAULT JUDGMENT

18 Civ. 7507 (JGK)

-VS-

BESIM KUKAJ d/b/a BKUK GROUP and BKUK NYC Restaurant Group, BKUK CORPORATION d/b/a Cara Mia, BKUK 1 CORP. d/b/a Pecorino Pizzeria, BKUK 3 Corp. d/b/a La Carbonara, BKUK 5 CORP., BKUK 6 CORP. d/b/a Gallo Nero, BKUK 7 CORP. d/b/a Gallo Nero II and El Gallo de Oro, BKUK 8 CORP. d/b/a Serenata Mexican Restaurant, BKUK 9 CORP. d/b/a Lime Jungle Empanadas, BKUK 10 CORP. d/b/a Cara Mia and Cara Mia 2, ZUCCA TRATTORIA INC. d/b/a Taqueria Mez-A and Gallo Nero, PIO RESTURANT LLC d/b/a Luna Piena, 9TH AVENUE LIME JUNGLE INC. d/b/a Limon Jungle, B & R SORRENTO CORP. d/b/a Intermezzo, 319 WEST 51ST ST. RESTAURANT CORP. a/k/a 319 W 51st St Inc. d/b/a Maria Pia Restaurant and GALLO NERO W 44TH INC. d/b/a Gallo Nero,

Defendants.

On August 10, 2021, Magistrate Judge Katharine H. Parker filed a Report and Recommendation Following Damages Inquest (the “Report & Recommendation”) in the matters of *Campos, et al. v. BKUK 3 Corp., et al.*, No. 18-cv-4036 (JGK)(KHP) (the “Campos Action”) and *Macancela, et al. v. Besim Kukaj, et al.*, No. 18-cv-7507 (JGK)(KHP) (the “Macancela Action”) (Campos Dkt. No. 156; Macancela Dkt. No. 214). No objections were filed to the Report & Recommendations within the deadline set forth by Fed. R. Civ. P. 72(b) and the Report & Recommendation (Report & Recommendation, at 33), and none have been filed to date. The Court found the Report & Recommendation to be well reasoned and adopted it in full. (Campos Dkt. No. 158; Macancela Dkt. No. 216).

The history of these two Actions has been discussed at length in the Report & Recommendation, prior Orders of the Court, and Plaintiffs' submissions request default judgment and pertaining to the damages inquest. (*E.g.* Campos Dkt. Nos. 137-139, 146-150, 155; Macancela Dkt. Nos. 192-194, 201-205, 213).

The Campos Action was commenced on May 4, 2018 by the filing of a Class & Collective Action Complaint by Abraham Campos, Eder Gordillo, Paulino Carpintero, Samuel Herrera and Yoni De Los Santos (collectively, the "Campos Plaintiffs"). The Macancela Action was commenced on August 17, 2018 by the filing of a Class & Collective Action Complaint by Bryan Macancela, Cristian Asitimbay, Mario Asitimbay, Edison Macancela, Mitlon Quizhpilema, Eduardo Yunga, Vladimir Yunga, Felipe Vega Loyola, Victor Gonzalez, Juan Agapito Carranza, Rogelio De Jesus Santos, Diego Estrada Cortez and Jose Vazquez-Reyes (collectively, the "Macancela Plaintiffs" and collectively with the Campos Plaintiffs, the "Plaintiffs").

After initially participating in the respective Actions, Defendants ceased to participate or appear in either Action. On April 3, 2019, the Court certified this case as a FLSA § 216(b) collective action and F.R.C.P. 23 class action. (Campos Dkt. No. 83; Macancela Dkt. No. 140). Upon Plaintiffs' request for entry of default, The Clerk of Court entered a Certificate of Default against all Campos and Macancela Defendants except for BKUK 1 Corp. on May 20, 2020. (Campos Dkt. No. 136; Macancela Dkt. No. 190). Plaintiffs filed a Motion for Default Judgment and Order to Show Cause as to all Defendants on July 20, 2020 (Campos Dkt. No. 137-139; Macancela Dkt. No. 192-194), and the Court referred the matter to an inquest on August 21, 2020. (Campos Dkt. No. 143; Macancela Dkt. No. 198).

Upon review of Plaintiffs' submissions, Magistrate Judge Katharine H. Parker issued the Report & Recommendations recommending awards to individual Plaintiffs consisting of unpaid

wages, unpaid overtime, unpaid spread of hours, liquidated damages, statutory wage notice and wage statements damages, bounced checks and incurred fees (*see* Report & Recommendation, at 34-35); post-judgment interest to be calculated from the date that the Clerk of Court enters judgment to the date of payment at the federal statutory rate set forth at 28 U.S.C. § 1961; litigation expenses and attorneys' fees to Plaintiffs' counsel; and a default judgment against Defendant BKUK 1 Corp. (*id.* at 4 fn. 5).

Therefore, for the reasons set forth in the Report & Recommendation, and Defendants having failed to file objections or responses to the filings discussed above, it is hereby:

ORDERED default judgment is hereby entered against ALL DEFENDANTS, jointly and severally, under the FLSA and NYLL for unpaid wages, unpaid overtime, unpaid spread of hours, failure to provide wage notice and wage statements, and for failure to reimburse bounced check payments and resulting bank fees;

ORDERED that pursuant to this default judgment, Plaintiffs be awarded the following amounts, as set forth in more detail in the Damages Chart attached to the Report & Recommendation:

C. Asitimbay	\$143,530.22
M. Asitimbay	\$23,586.73
Julio E. Yunga	\$99,248.17
V. Yunga	\$99,211.17
D. Estrada Cortez	\$21,455.42
V. Gonzalez	\$56,762.29
M. Quizhpilema	\$16,608.42
F. Vega-Loyola	\$32,309.14

S. Calle	\$50,965.25
A. Campos	\$219,426.65
J. Campoverde	\$41,732.87
P. Carpintero	\$32,767.41
Y. De Los Santos	\$165,156.23
E. Gordillo	\$111,977.43
G. Hasangjekaj	\$72,718.51
S. Herrera	\$180,429.37
P. Katanolli	\$143,756.58
C. Supacela	\$265,753.38
N. Zhagnay	\$226,668.71
E. Macancela	\$83,808.39
B. Macancela	\$168,949.16;

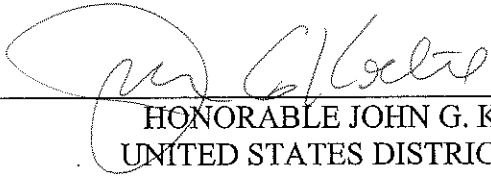
ORDERED that attorneys' fees are awarded in the amount of \$92,861.67 and costs in the amount of \$6,452.82 to Pelton Graham LLC for a total of \$99,314.49, and attorneys' fees in the amount of \$77,440.00 and costs in the amount of \$2,269.53 to The Howley Law Firm PC for a total of \$79,709.53; and

ORDERED that the claims of all Collective and Class Action Members who did not receive awards pursuant to this Order & Judgment are dismissed without prejudice and ^{any} their statute of limitations period tolled from the date of this Order.


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tolling of the statute of limitations for those claims
is ended on the date of this Order.

DATED this 3 day of December, 2021

SO ORDERED:



HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

The Clerk is directed close
both cases: 18 CV 4036 and 18 CV 7507,
so ordered.

U.S.D.J.